

**SPEECH-LANGUAGE PATHOLOGY GOVERNING BOARD
OFFICE OF LICENSED ALLIED HEALTH PROFESSIONALS
CONCORD, NEW HAMPSHIRE**

In The Matter Of:

Docket #08-2014

Pamela J. Swersky, SLP
(Adjudicatory/Disciplinary Proceeding)

DECISION AND ORDER

By the Board: Maureen W. Heckman, SLP, Chair, Robyn Kingsley, SLP, Laura Darling, SLP, and Deborah Snow-Major, SLP

Also present: Tina M. Kelley, Administrator to the Board

Appearances: Pamela J. Swersky, SLP

On October 2, 2014, the New Hampshire Speech-Language Pathology Governing Board ("Board") held a hearing in the matter of Pamela J. Swersky, SLP ("Ms. Swersky" or "Respondent) pursuant to the Board's "Notice of Hearing" and subsequent "Order to Reschedule Hearing". The hearing was held in accordance with RSA 328-F:23, RSA 328-F: 24, RSA 541-A, Ahp 200 and Spe 200. Ms. Swersky appeared before the Board *pro se*.

Background Information

The New Hampshire Speech-Language Pathology Governing Board first granted a license to practice as an Speech-Language Pathologist in the State of New Hampshire to Pamela J. Swersky, SLP on May 5, 2006. Respondent holds license number 1094. Ms. Swersky has had no lapse in her license since the initial date of licensure.

On December 9, 2013 the Office of Licensed Allied Health Professionals received Ms. Swersky's completed application for renewal of her license. On page 3 of the renewal application form (*exhibit #1*) Ms. Swersky listed continuing education taken between January 1, 2012 and

December 31, 2013 totaling 32 continuing education hours. On the renewal form Ms. Swersky listed home mailing address and home physical address as: 22 Cathedral Circle, Nashua New Hampshire 03063.

On December 10, 2013 the Office of Licensed Allied Health Professionals renewed Ms. Swersky's license to practice as a Speech-Language Pathologist in the State of New Hampshire. The renewed license was sent to the address provided on the renewal form.

On or about January 30, 2014 the Speech-Language Pathology Governing Board sent Ms. Swersky a letter (***exhibit #2***) informing her that the continuing education she claimed on her renewal form was being audited. The material was sent to the home mailing address provided on Ms. Swersky's application for renewal and was due back in the Board's office no later than February 28, 2014.

On March 19, 2014 the Office of Licensed Allied Health Professionals sent Ms. Swersky a second letter requesting submission of the continuing education material required under Spe 402.09 (***exhibit #3***). The material was sent to the home mailing address and was due in the Board's office no later than April 1, 2014.

On April 15, 2014 the Board's office sent Ms. Swersky a third letter requesting submission of the continuing education audit material no later than April 28, 2014. Even though this was the third letter it was marked "Re: SECOND NOTICE" (***exhibit #4***).

On May 15, 2014 Ms. Swersky was sent a fourth letter by both certified and regular mail requesting submission of the continuing education audit material no later than May 26, 2014. The certified receipt was received back in the Board's office on May 19, 2014 and was signed for by Ms. Swersky. (**exhibit #5**)

On May 20, 2014 the Board's office received Ms. Swersky's "2013 Continuing Education Audit Information Form" and supporting documents (**exhibit #6**).

The continuing education audit material was reviewed at the Board's meeting held June 5, 2014. During the Board's meeting it was determined that Ms. Swersky did not submit certificates of completion for courses she claimed on her "2013 Continuing Education Audit Information Form". The Board voted to send Ms. Swersky a letter requesting certificates for the courses "Bullying and Consequences" and "Dementia: Dealing with Behaviors" (**exhibit #7**). The deadline for submission of the documentation was June 10, 2014.

On June 24, 2014 Ms. Swersky was sent a second notice by certified and regular mail requesting submission of the documentation requested by the Board. The deadline for submission was July 7, 2014 (**exhibit #8**).

On July 11, 2014 the certified letter was returned to the Board's office marked "Unclaimed" (**exhibit #9**). The letter sent by regular mail was not returned to the Board's office.

On August 7, 2014 the Board issued a Notice of Hearing to Ms. Swersky which was sent by both certified and regular mail.

An adjudicatory hearing commenced on October 2, 2014, the specific issues to be determined included:

- A. Whether or not Ms. Swersky engaged in professional misconduct by not submitting documentation of completion of the continuing education she earned between January 1, 2012 and December 31, 2013, in violation of RSA 328-F:23, II (a); RSA 328-F:23, II (j); Spe 404.01(a); and/or Spe 404.01(i); and/or

- B. Whether Ms. Swersky completed the continuing education she reported on her 2013 Renewal Application Form as required by Spe 402.09(b).
- C. If any of the above allegations are proven, whether and to what extent Respondent should be subjected to one or more of the disciplinary sanctions authorized by RSA 328-F:23, IV.

At the hearing the Board reviewed numerous exhibits. The following exhibits were entered into evidence:

Board Exhibits:

Exhibit #1 – 2013 Renewal Application Form

Exhibit #2 – January 30, 2014 letter

Exhibit #3 – March 19, 2014 letter

Exhibit #4 – April 15, 2014 letter

Exhibit #5 – May 14, 2014 letter

Exhibit #6 – 2013 Continuing Education Audit Information Form and supporting documents

Exhibit #7 – June 6, 2014 letter

Exhibit #8 – June 24, 2014 letter

Exhibit #9 – Returned Receipt marked “Unclaimed” from certified mail dated July 11, 2014

At the hearing, the Board heard testimony from the following individual:

Pamela J. Swersky, SLP testified that she did not keep a copy of the “Continuing Education Audit Information Form” or the supporting documents. She acknowledged that she had not responded to the Board’s request for information in a timely manner and/or not responded at all regarding the audit. She stated the reason for not responding was that she was now retired and that she has “no excuse” for not responding. She acknowledged that she listed a course titled “Dementia: Dealing with Challenging Behaviors” on the “Audit Form” that she had not fully completed before December 31, 2013. She further acknowledged that she had not provided documentation for the courses “NH Section 504: Updated Guide” and “Bullying and Consequences”. Ms. Swersky stated that she had taken and completed the course titled “NH Section 504: Updated Guide” but was unable to locate the documentation of completion. She

reported to the Board that she could contact the provider to obtain a copy of the certificate of completion. This one course is worth 6 CEU's and would show compliance with the continuing education required between January 1, 2012 and December 31, 2013.

Applicable Laws:

RSA 328-F:23, II (a)

Knowingly or negligently providing inaccurate material information to the board or failing to provide complete and truthful material information upon inquiry by the board, including during the process of applying for a license, license renewal, and license reinstatement.

RSA 328-F:23, II(j):

(j) Violation of any provision of this chapter, of any governing board's practice act or rule adopted pursuant to RSA 541-A, or of any state or federal law reasonably related to the licensee's authority to practice or ability to practice safely.

Spe 402.09(b):

(b) Audited renewal applicants who reported on the renewal application form that they completed maintenance of continuing competence before December first of the renewal year shall:

- (1) Submit proof in the form of the required documentation; and
- (2) Shall do so no later than February 1 of the year following the renewal year.

Spe 404.01(a):

(a) Knowingly or negligently providing inaccurate material information to the board or failing to provide complete and truthful material information upon inquiry by the board, including during the process of applying for an initial, renewed or reinstated license or certificate;

Spe 404.01(i):

(i) Violation of:

- (1) Any provision of RSA 328-F;
- (2) Any provision of RSA 326-F;
- (3) Any rule adopted by the board; or
- (4) Any state or federal law reasonably related to the licensee's authority to practice or the licensee's ability to practice safely.

Findings of Fact and Rulings of Law:

In light of the exhibits and Ms. Swersky's testimony the Board made the following findings of fact and rulings of law:

- Ms. Swersky engaged in professional misconduct by failing to submit to the Board all documentation of completion of continuing education she earned between January 1, 2012 and December 31, 2013 February 28, 2014 as instructed in the letter dated January 30, 2014 in violation of RSA 328-F:23, II(a); RSA 328-F:23, II (j); Spe 404.01(a); and Spe 404.01(i).
- On October 6, 2014 Ms. Swersky submitted additional evidence which showed she completed the course titled "NH Section 504: Updated Guide" on December 13, 2014. The Board finds that Ms. Swersky is in compliance with the required 30 hours of continuing competence required by Spe 405.01(a).
- Ms. Swersky engaged in professional misconduct by not completing all continuing education reported on her 2013 Renewal Application Form, specifically "Dementia: Dealing with Challenging Behaviors" in violation of Spe 402.09(b).
- Ms. Swersky engaged in professional misconduct by not providing a timely response to the Board's letters dated January 30, 2014, March 19, 2014, and April 15, 2014. The Board acknowledged that after the fourth letter dated May 15, 2014 Ms. Swersky then responded to the Board's notification that the continuing education she reported on her 2013 Renewal Application was being audited. In addition Ms. Swersky never responded to the letter dated June 24, 2014 in violation of RSA 328-F:23, II (j); and Spe 404.01(i).

Based upon the findings of fact and rulings of law, the Board voted to order the following:

THEREFORE IT IS ORDERED, that Ms. Swersky is **REPRIMANDED**.

IT IS FURTHER ORDERED, that Ms. Swersky shall be fined \$200.00 to be paid to the Board's office within 30 days of the date this final Decision and Order takes effect. The check shall be made payable to the Treasurer, State of New Hampshire.

IT IS FURTHER ORDERED, that if the \$200.00 fine is not received in the Board's office within 30 days of the date of this Decision and Order Ms. Swersky's license to practice will be immediately "**Suspended**".

IT IS FURTHER ORDERED, that within fifteen (15) days of the effective date of this Decision and Order Ms. Swersky shall furnish a copy of this Decision and Order to any current

employer for whom she performs services as a Speech-Language Pathologist and to any agency or authority which licenses, certifies or credentials Speech-Language Pathologists, with which Ms. Swersky is presently affiliated.

IT IS FURTHER ORDERED, that Ms. Swersky furnish a copy of this Decision and Order to any employer and/or agency, or authority which licenses, certifies or credentials Speech-Language Pathologists one year from the effective date of this Decision and Order.

IT IS FURTHER ORDERED that Ms. Swersky's breach of any terms and conditions of this Decision and Order shall constitute unprofessional conduct pursuant to RSA 328-F:23, II.

IT IS FURTHER ORDERED that this Decision and Order shall become a permanent part of Ms. Swersky's file, which is maintained by the Board as a public document.

IT IS FURTHER ORDERED that this Decision and Order shall take effect as a final Order of the Board on the date it is signed by an authorized representative of the Board.

BY ORDER OF THE BOARD

Date: November 6, 2014

A handwritten signature in cursive script that reads "Maureen W. Heckman SLP, Chair". The signature is written in dark ink and is positioned above the printed name and title.

Maureen Heckman, SLP, Chair
Authorized Representative of the
Speech-Language Pathology Governing Board